

# EXHIBIT A



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Daniel et al.

Serial No.: 09/783,354

Art Unit: 1772

Filed: February 14, 2001

Examiner: Cheryl Ann Juska

For: ORTHOGONALLY AMBIGUOUS CARPET TILE

Attorney Docket No. IRC293 I4060/205649

Commissioner for Patents  
U.S. Patent and Trademark Office  
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**DRAFT**

Colleen Kadian

**AMENDMENT AND RESPONSE TO OFFICE ACTION**

Sir:

This paper responds to the Office Action mailed December 17, 2003 in the above-identified patent application.

**Amendments to the Specification** begin on page 2 of this paper.

**Amendments to the Claims** are reflected in the listing of claims which begins on page 3 of this paper.

**Remarks** begin on page 10 of this paper.

**Amendments to the Specification**

In the section entitled "Brief Description Of The Drawings", please insert the following paragraphs after paragraph [0014]:

[0014A] FIG. 4 is a top plan view of an assembly of carpet tiles cut from the web of FIG. 1.

[0014B] FIG. 5 is a top plan view of another assembly of the carpet tiles of FIG. 4.

### **Amendments to the Claims**

This listing of claims replaces all prior versions and listings of claims in the application.

1. (Currently Amended) Carpet tiles comprising textile faces, wherein, when the tiles are assembled on a flooring surface so that each tile is adjacent to and abuts at least one other tile, the tiles [that] exhibit orthogonal ambiguity without pattern alignment between adjacent tiles.

2. (Previously presented) The carpet tiles of claim 1, wherein the tiles have tufted faces.

3. (Previously presented) The carpet tiles of claim 1, wherein the tiles have woven faces.

4. (Previously presented) The carpet tiles of claim 1, wherein the tiles have fusion bonded faces.

5. (Previously presented) The carpet tiles of claim 1, wherein each tile has a pattern comprising a background color and a first color different from the background color.

6. (Previously presented) The carpet tiles of claim 5, wherein the background color and the first color have similar intensities.

7. (Previously presented) The carpet tiles of claim 5, wherein the pattern comprises shapes, at least one of which shapes is formed by at least one straight line.

8. (Previously presented) The carpet tiles of claim 7, wherein adjacent shapes comprise at least one common color.

9. (Previously presented) The carpet tiles of claim 7, wherein the at least one straight line is oriented parallel to a carpet tile edge.
10. (Previously presented) The carpet tiles of claim 7, wherein at least one shape comprises only the background color.
11. (Previously presented) The carpet tiles of claim 7, wherein a least one shape comprises the background color and the first color.
12. (Previously presented) The carpet tiles of claim 7, wherein the pattern further comprises a second color different from the background color and the first color.
13. (Previously presented) The carpet tiles of claim 12, wherein the background color, the first color, and the second color have similar intensities.
14. (Previously presented) The carpet tiles of claim 12, wherein at least one shape comprises only the background color and the second color.
15. (Previously presented) The carpet tiles of claim 12, wherein at least one shape comprises the background color, the first color, and the second color.
16. (Previously presented) The carpet tiles of claim 12, wherein the pattern further comprises a third color different from the background color, the first color, and the second color.
17. (Previously presented) The carpet tiles of claim 16, wherein the background color, the first color, the second color, and the third color have similar intensities.
18. (Previously presented) The carpet tiles of claim 16, wherein at least one shape comprises only the background color and the third color.

19. (Previously presented) The carpet tiles of claim 16, wherein at least one shape comprises only the background color, the second color, and the third color.
20. Cancelled.
21. (Previously presented) Floorcovering comprising at least two carpet tiles of claim 1 positioned side-by-side.
22. (Previously presented) Floorcovering comprising at least two carpet tiles of claim 1 positioned side-by-side wherein each tile comprises a pattern formed by a background color and at least two colors different from the background color, wherein the background color and at least one of the at least two colors different from the background color are the same for the at least two orthogonally ambiguous carpet tiles.
23. (Previously presented) The floorcovering of claim 22, wherein the pattern on each of the at least two carpet tiles comprises shapes, at least one shape on each of the at least two orthogonally ambiguous carpet tiles having a straight side.
24. (Currently Amended) The floorcovering of claim 23, wherein adjacent shapes on each [of the at least two carpet] tile[s] comprise at least one common color.
25. Cancelled.
26. Cancelled.
27. (Previously presented) The carpet tiles of claim 1, wherein the tiles are square.
28. (Previously presented) The carpet tiles of claim 1, wherein each tile comprises tile edges and each tile face comprises a pattern with at least one rectangular shape.

29. (Previously presented) The carpet tiles of claim 28, wherein the at least one rectangular shape comprises a shape edge parallel to at least one edge of the tile on which the at least one rectangular shape appears.

30. (Previously presented) The carpet tiles of claim 29, wherein the at least one rectangular shape comprises shape edges parallel to a first pair of opposed edges of the tile on which the at least one rectangular shape appears and shape edges parallel to a second pair of opposed edges of the tile on which the at least one rectangular shape appears.

Claims 31 – 39. Cancelled.

40. (Withdrawn) A method of producing the floorcovering of claim 21 comprising forming carpet tiles having textile faces exhibiting orthogonal ambiguity and positioning the carpet tiles side-by-side on a flooring surface in any side-by-side or rotational orientation relative to each other.

41. (Withdrawn) A method of producing the carpet tiles of claim 1 comprising forming carpet tiles having an orthogonally ambiguous pattern that does not require pattern alignment between adjacent tiles.

42. (Withdrawn) The method of claim 41, wherein the carpet tiles are formed by designing a pattern for a carpet web, producing the carpet web with the pattern, and cutting the carpet web into the tiles.

43. (Withdrawn) The method of claim 42, wherein the pattern for the carpet web is designed by:

- a. selecting a background color for the carpet web;
- b. using a plurality of colors, including the background color, to form shapes on the carpet web; and

c. designing and positioning the shapes on the carpet web so that at least one shape has at least one straight side parallel to an edge of the carpet web and adjacent shapes have at least one common color.

44. (Withdrawn) The method of claim 42, wherein the carpet web is produced using a tufting machine.

45. (Withdrawn) The method of claim 41, wherein the carpet tiles are formed by printing the pattern on the tiles.

46-73. Cancelled.

74. (Currently Amended) The [Orthogonally ambiguous] carpet tiles of claim 1, wherein the tiles comprise[ing] a pattern of shapes, at least one of which shapes on each tile is formed by a straight line oriented parallel to an edge of the carpet tile on which the at least one shape appears, wherein the shapes are further formed from at least one of a plurality of colors comprising at least a background color, a first color, and a second color, wherein at least one of the shapes on each tile is formed from the background color only, at least one of the shapes on each tile is formed from the background color and the first color only, at least one of the shapes on each tile is formed from the background color and the second color only, and at least one of the shapes on each tile is formed from the background color, the first color, and the second color, wherein the background color, the first color, and the second color have similar intensities and wherein adjacent shapes on [the] each tile[s] comprise at least one common color.

75-78. Cancelled.

79. (Withdrawn) A carpet web having a width and a length and comprising a textile face having a pattern comprising a plurality of shapes formed by a plurality of colors, wherein at least some adjacent shapes on the web comprise a common color and none of the shapes extends the full length or width of the web, wherein the web is separable into carpet tiles so that the tiles cut



from the web all comprise a common color and at least a portion of at least some of the plurality of shapes appear on each carpet tile cut from the web, each of which shapes having an edge that parallels at least one edge of the carpet tile on which it appears.

80. (Withdrawn) The web of claim 79, wherein the face is tufted and the plurality of colors comprises a first color and a second color, wherein at least some of the plurality of shapes are formed by yarn tufts of the first color and the second color, at least some of the yarn tufts of the first color having a height greater than at least some of the yarn tufts of the second color proximate the tufts of the first color.

81. (Withdrawn) The web of claim 79, wherein at least some of the plurality of shapes are rectangular shapes.

82. (Currently Amended) [A carpet] Carpet tiles cut from the web of claim 79, wherein, when the tiles are assembled on a flooring surface so that each tile is adjacent to and abuts at least one other tile, the tiles exhibit orthogonal ambiguity without alignment of shapes between adjacent tiles.

83. (Currently Amended) The carpet tiles of claim 82, wherein the tiles [is] are square.

84. (Currently Amended) The carpet tiles of claim 82, wherein at least some of the plurality of shapes appearing on [the] each carpet tile comprise straight edges, and wherein at least one of the straight edges of each shape parallels a first pair of opposed edges of the carpet tile on which the shape appears and at least one of the straight edges of each shape parallels a second pair of opposed edges of the carpet tile on which the shape appears.

85. (Currently Amended) Floorcovering comprising a plurality of carpet tiles [cut from the web of claim 79 and positioned] of claim 82 assembled on a flooring surface so that each tile is adjacent to and abuts at least one other tile.

86. Cancelled.

87. (Withdrawn) A method of producing the floorcovering of claim 75 comprising forming carpet tiles having textile faces exhibiting orthogonal ambiguity and positioning the carpet tiles side-by-side on a flooring surface in any side-by-side or rotational orientation relative to each other.

88. (Withdrawn) A method of producing the carpet tiles of claim 50 comprising forming carpet tiles having an orthogonally ambiguous pattern.

89. (Withdrawn) The method of claim 88, wherein the carpet tiles are formed by designing a pattern for a carpet web, producing the carpet web with the pattern, and cutting the carpet web into the tiles.

90. (Withdrawn) The method of claim 89, wherein the pattern for the carpet web is designed by:

- a. selecting a background color for the carpet web;
- b. using a plurality of colors, including the background color, to form shapes on the carpet web; and
- c. designing and positioning the shapes on the carpet web so that at least one shape has at least one straight side parallel to an edge of the carpet web and adjacent shapes have at least one common color.

91. (Withdrawn) The method of claim 89, wherein the carpet web is produced using a tufting machine.

92. (Withdrawn) The method of claim 88, wherein the carpet tiles are formed by printing the pattern on the tiles.

93-95. Cancelled.

## REMARKS

Applicants' Assignee and its counsel appreciate the Examiner's careful and thorough examination of this application and preparation of the December 17, 2003 Action which rejected claims 1-19, 21-24, and 27-30 only by reference to §112, implicitly acknowledging that those claims distinguish over the prior art of record. In order to expedite prosecution of this application and early issuance of a patent, Applicants' Assignee is focusing this Application on those claims by the following amendments and claim cancellations (without prejudice to pursuit of cancelled claims and other subject matter in other applications.). This Amendment and Response amends claims 1, 24, 74, and 82-85 and cancels claims 47, 49-73, 75-78, 86, and 93-95. With this Amendment and Response, claims 1-19, 21-24, 27-30, 40-45, 74, 79-85, and 87-92 are pending in this application. No fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account 11-0855.

### **I. Restriction Requirement**

The December 17, 2003 Action maintains that the application contains claims directed to three patentably distinct inventions – Invention I (directed to carpet tiles, an assembly of tiles, and a floorcovering or tiles); Invention II (drawn to a carpet web); Invention 3 (drawn to a method of making floorcovering and carpet tiles). Applicants' Assignee hereby elects to pursue Invention I in this application. Applicants' Assignee makes this election with traverse, and without prejudice to the presentation of the claims of Inventions II and III in later applications.

The presence of Inventions I and II in a single application imposes no undue burden on the Examiner. More specifically, in order to properly search and examine Invention I claim 82 (directed to a carpet tile cut from the web of claim 79), the Examiner must search in the art for the web of claim 79 – a claim of Invention II. The presence of Inventions I and II thus imposes

no undue burden on examination, and restriction for examination purposes is improper. Because Applicants' Assignee has shown that restriction of Inventions I and II is improper, withdrawal of the requirement and examination of all of the claims of Inventions I and II on the merits is respectfully requested.

Similarly, the presence of Inventions I and III in a single application imposes no undue burden on the Examiner. For example, when searching for and examining Invention I claim 1 (directed to tiles that exhibit orthogonal ambiguity without pattern alignment), the subject matter of Invention III claim 41 (directed to forming carpet tiles having orthogonally ambiguous patterns that do not require pattern alignment between adjacent tiles) will necessarily also be searched. The presence of Inventions I and III thus imposes no undue burden on examination, and restriction for examination purposes is improper. Because Applicants' Assignee has shown that restriction of Inventions I, II, and III is improper, withdrawal of the requirement and examination of all of the claims on the merits is respectfully requested.

## **II. Amendments to the Drawings**

The Action objects to the drawings as failing to show a floorcovering exhibiting orthogonal ambiguity but suggests submission of new figures to overcome this objection. Accordingly, pursuant to the Action's suggestion, Applicants' Assignee has submitted new Figures 4 and 5 (attached behind Exhibit 1), each illustrating a different randomly oriented arrangement of the tiles of the present invention into a floorcovering. Figures 4 and 5 do not constitute new matter, but merely represent different orientations and positions of the tiles shown in the drawing of the web of Figure 1 that have been reassembled as taught by the specification at page 2, lines 10-19.

### **III. 35 U.S.C. § 112 Claim Rejections**

The Action rejects claims 1-19, 21-24, 27-30, 47, 49-78, 86, and 93-95 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Action also rejects claims 47, 86, and 94 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 47, 49-73, 75-78, 86, and 93-95 have been cancelled without prejudice, rendering the § 112 rejection of these claims moot.

#### **A. Claims 1-19, 27-30, 74**

Claims 1-19, 27-30, and 74 are rejected as failing to “positively recite that [the] tiles are assembled on a flooring surface so that each tile is adjacent to and abutting at least one other tile.” Claim 1 has been amended to recite that the tiles exhibit orthogonal ambiguity “when the tiles are assembled on a flooring surface so that each tile is adjacent to and abuts at least one other tile,” thereby overcoming the Action’s rejection of claim 1 on this basis. Moreover, claim 74 has been amended to depend from amended claim 1. Thus, the Action’s rejection of claim 74 on this basis is also overcome. Finally, claims 2-19 and 27-30 all ultimately depend from amended claim 1. It is Applicants’ Assignee’s understanding that these claims were rejected solely by virtue of their dependence on rejected independent claim 1. Because claim 1 has been amended to overcome the Action’s § 112 rejection, rejection of these dependent claims should also be withdrawn.

#### **B. Claims 24 and 74**

Claims 24 and 74 are rejected as being unclear about whether the phrase “adjacent shapes” refers to the shapes within a single tile or to adjacent shapes on adjacent tiles. Claims 24 and 74 have been amended to clarify that “adjacent shapes” refers to shapes on a single tile. Applicant’s Assignee therefore requests withdrawal of this rejection.

**C. Claims 1-19, 21-24, 27-30, and 74**

In paragraph 13 at page 7 of the Action, claims 1-19, 21-24, 27-30 and 74 (and other claims now cancelled without prejudice) are rejected as indefinite “for claiming the carpet tiles in terms of a property [orthogonal ambiguity] instead of the structural or chemical features that produce said property and which would distinguish said tiles from other prior art carpet tiles.” Applicants respectfully submit that this rejection confuses the standards for claim definiteness, enablement, and novelty/nonobviousness, is not proper, and should be withdrawn.

The only requirement for a claim to be definite is that it clearly set forth the subject matter for which the Applicant seeks exclusive rights. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1358 n. 2 (Fed. Cir. 1999) (“Definiteness requires the language of the claim to set forth clearly the domain over which the applicant seeks exclusive rights . . .”). This requirement is codified in 35 U.S.C. § 112, second paragraph. The basic definiteness inquiry is therefore whether one of skill in the art would understand what is claimed *when the claim is read in light of the specification*. *Miles Laboratories, Inc. v. Shandon Inc.*, 997 F. 2d 870, 874-75 (Fed. Cir. 1993) (emphasis added). “[C]laims read in light of the specification [need only] *reasonably apprise* those skilled in the art of the scope of the invention, § 112 demands no more.” *Id.* (emphasis added).

Claim 1 recites carpet tiles that exhibit orthogonal ambiguity without pattern alignment between adjacent tiles. “Orthogonal ambiguity” is clearly defined in the specification as the property that allows tiles to be laid in any side-by-side orientation with respect to adjacent tiles without looking out of place to the ordinary viewer and thereby still achieving an appearance of continuity across the entire installation as if the tiles were part of a broadloom web.

Specification page 2, lines 14-17. Thus, claim 1 is precise as to its scope – tiles that can be laid

in any side-by-side orientation with respect to and without requiring pattern alignment between adjacent tiles and without looking out of place to the ordinary viewer and thereby still achieving an appearance of continuity across the entire installation without pattern – and thus claim 1 (and claims 2-19, 21-24, 27-30 and 74 which were rejected by virtue of their dependence from claim 1) is definite. The definiteness inquiry should end here.

However, the Action maintains that the claims lack clarity because they fail to recite “the combined structural features of the design pattern that provide the property of ‘orthogonal ambiguity.’” Action, p. 7. In short, the Action appears to maintain that Applicants are required to include in their claims the properties of the carpet tiles that result in orthogonal ambiguity. Respectfully, that is not a requirement for claims to be definite. Applicants are not required to recite in the claims the features of the invention that enable it to work. The written description, not the claims, must enable. 35 U.S.C. § 112, first paragraph. The only requirement for claims to be definite is that the claims clearly set forth what they cover to one of skill in the art. The pending claims recite tiles that exhibit orthogonal ambiguity as that term has been defined in the specification and thus are definite.

Moreover, the Action appears to maintain at the bottom of page 7 and top of page 8 that such structural features must be added to the pending claims to distinguish the claimed tiles from other prior art tiles. This appears to confuse what must be done in order to overcome a claim rejection as not new or non-obvious over prior art with what must be present in a patent application and claims for a claim to be adequately definite. Anticipation or obviousness rejections over prior art are overcome by inclusion in claims of features that distinguish over the art. However, the issue of whether a claim is definite is not determined by examination of the claim for distinguishing “structure or chemical features” in the claim. For example, an applicant

can claim a red ball, and that claim would be definite because one skilled in the art would know what is claimed. The subject matter described by such a claim may not be novel or nonobvious and may therefore be unpatentable because the prior art includes red balls or balls that obviously could be red, but the claim would still be definite. Furthermore, Applicants were, at a minimum, the first to invent tiles that exhibit orthogonal ambiguity without shape or pattern alignment between adjacent tiles. Thus, the specific design features identified by the Action to incorporate in the claims are unnecessary to distinguish the claimed tiles from prior art tiles; the limitations of amended claim 1 do that without more. Rather, because Applicants are the first to invent such carpet tiles, they are allowed to claim their invention without qualification by reference to those specific design features.

In support of the Action's assertion that the claims cannot recite a property (orthogonal ambiguity) but rather must include the features that contribute to the achievement of that property in carpet tiles, the Action quotes an excerpt from the 1967 Board of Patent Appeals decision in *Ex parte Slob*, 157 U.S.P.Q. 172 (1967):

“claims merely setting forth physical characteristics desired in an article, and not setting forth specific compositions which would meet such characteristics, are invalid as vague, indefinite, and functional since they cover any conceivable combination of ingredients either presently existing or which might be discovered in further and which would impart desired characteristics.”

*Slob* is distinguishable from the claims pending in this application, and, in any event, *Slob* does not describe the applicable law. In *Slob*, the applicant claimed “a liquefiable substance” that exhibited certain properties (liquefied at a certain temperature and was compatible with certain ingredients). The Board took issue with the applicant broadly claiming a “substance” which “purports to cover everything which will perform the desired functions [of liquefaction and compatibility] regardless of its composition.” Rather, applicants had to more clearly and



definitely define the article that they were trying to patent. Merely claiming a “substance,” which the Board found “would cover any conceivable combination of ingredients,” was insufficient to render the claim definite, according to the Board.

Unlike the situation in *Slob*, where the claim was to “a substance” (a phrase literally encompassing all matter in the universe), in the present case, applicants are claiming a specific, definite article – carpet tiles. That they further define the scope of their claims by a property exhibited by the claimed tiles (orthogonal ambiguity) is perfectly acceptable. MPEP 2175.05(g) (“there is nothing inherently wrong with claiming something by what it does”). Furthermore, “[t]he absence in the claim[s] of specific [features] which would bring about the desired [] property is no defect. The claims define the limits of the claimed invention, and it is the function of the specification to detail how this invention is to be practiced.” *In re Roberts*, 470 F.2d 1399, 1403 (C.C.P.A. 1973).

Moreover, *Ex parte Slob* is superceded by the controlling authority of *In re Swinehart*, 439 F.2d 210 (C.C.P.A. 1971).<sup>1</sup> The claim at issue in *Swinehart* was similar to that in *Slob* and presented the identified issue. It recited a “new composition of matter, transparent to infra-red rays . . . .” The point of novelty in *Swinehart* lay in the transparency of the composition. The Examiner rejected the claim as indefinite for its use of functional language. Thus, both cases involved claims rejected as indefinite that recited a very broadly specified article (a “substance” or “composition”) defined by properties or functions that it performed (e.g., liquefaction temperature or transparency).

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<sup>1</sup> *South Corp. v. United States*, 690 F.2d 1368, 1369 (Fed. Cir. 1982) (“holdings of our predecessor Courts, the United States Court of Claims and the United States Court of Customs and Patent Appeals . . . shall be binding as precedent in this Court.”).

However, unlike the Board in *Slob*, the CCPA in *Swinehart* upheld and approved the patent claim drafting technique of “defin[ing] something (in this case, a composition) by what it does [i.e., is transparent] rather than what it is (as evidenced by specific structure or material, for example).” In its decision, the CCPA acknowledged concern over the use of functional language, but dismissed it. Rather, “any concern over use of functional language at the so-called ‘point of novelty’ stems from fear applicant will attempt to distinguish over a reference by emphasizing a property or function which may not be mentioned by the reference and thereby assert that his claimed subject matter is novel. *Such a concern is not only irrelevant, it is misplaced.*” *Id.* at 212 (emphasis added). The CCPA then reversed the Board’s decision.

Moreover, the Patent Office has recently issued patents that claim a product by its properties or functions. By way only of example, U.S. Patent No. Re. 35,616 reissued in 1997 claims a glove that functions to “closely fit[]” the hand by reciting the following properties: impermeability to liquids, a specified tensile strength, and “thickness and elastic *properties*” that enable the glove to stretch and then relax. Claim 1 (emphasis added). The independent claim does not further recite what enables the glove to exhibit these properties. Thus, the practice of claiming a product by its properties or functions is a patent claim drafting technique approved by the MPEP and accepted by both the Patent Office and controlling authority.

Claim 1 particularly and distinctly recites carpet tiles that exhibit a property – orthogonal ambiguity – that is clearly defined in the specification. Claim 1 therefore clearly sets forth the subject matter it covers and thus meets the requirements of § 112, second paragraph. Applicants’ Assignee respectfully requests withdrawal of this rejection of claim 1 and claims 2-19, 21-24, 27-30 and 74, which depend from claim 1. Because § 112, second paragraph, is the only basis of rejection for claims 1-19, 21-24, and 27-30 and the § 112 rejections have been addressed and

remedied as set forth in Part III, these claims are allowable, and Applicants' Assignee requests that they be allowed.

#### **IV. 35 U.S.C. § 102 Claim Rejections**

The Action rejects claims 49-52, 54-59, 61-64, 75, 82-86, 93 and 95 under 35 U.S.C. § 112 as being anticipated by Eusemann. Claims 49-52, 54-59, 61-64, 75, 93 and 95 have been cancelled without prejudice, rendering the Action's rejection of these claims moot. Moreover, claim 82 (from which claims 83-85 now depend) has been amended to recite carpet tiles cut from the web of claim 79 so that each tile has a textile face with portions of at least some of the plurality of shapes found on the carpet web. Claim 82 also recites that when such tiles are assembled on a flooring surface so that each tile is adjacent to and abuts at least one other tile, the tiles exhibit orthogonal ambiguity without alignment of shapes between adjacent tiles. As Applicants' Assignee has explained repeatedly throughout prosecution, Eusemann teaches only carpet tiles having shapes and patterns that are designed to align with adjacent and abutting tiles. Eusemann thus fails to anticipate claim 82, and claim 82, as well as claims 83-85 which depend from claim 82, are allowable. Applicants' Assignee respectfully requests withdrawal of this rejection and allowance of claims 82-86.

#### **V. 35 U.S.C. § 103 Claim Rejections**

The Action rejects claims 53, 60, 65-74, and 76-78 under 35 U.S.C. § 103 as being unpatentable over Eusemann. Claims 53, 60, 65-73, and 76-78 have been cancelled without prejudice, rendering the Action's rejection of these claims moot. Moreover, claim 74 has been amended to ultimately depend from allowable claim 1. Claim 74 is therefore allowable at least by virtue of its dependency from allowable claim 1, and Applicants' Assignee respectfully requests withdrawal of this rejection and allowance of claim 74.

## CONCLUSION

Applicant's Assignee respectfully submits that claims 1-19, 21-24, 27-30, 74, and 82-85 are in condition for immediate allowance, and requests early notification of their allowance. If there are any matters that can be addressed by telephone, the Examiner is urged to contact the undersigned at 404 815-6367 or Kris Johnson Doyle at 404 815-6389.

Respectfully submitted,

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Attached is a draft response to the outstanding December 17, 2003 Office Action for U.S.S.N. 09/783,354. This is also to confirm our interview scheduled for 10 am on February 25, 2004. We will call you at that time to discuss the Action and our draft response. Thanks again for all of your efforts in this case, and please do not hesitate to call me if you should have any questions.

Regards,

Kris

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Examiner Juska:

Attached is a draft response to the outstanding December 17, 2003 Office Action for U.S.S.N. 09/783,354. This is also to confirm our interview scheduled for 10 am on February 25, 2004. We will call you at that time to discuss the Action and our draft response. Thanks for all of your efforts in this case, and please do not hesitate to call me if you should